

DISTRIBUTION OF TOBACCO SETTLEMENT PROCEEDS TO POLITICAL SUBDIVISIONS

NEW QUESTIONS AND ANSWERS

MEETING OF TEXAS ASSOCIATION OF COUNTIES

AUSTIN, TEXAS

JANUARY 12, 2000

PANEL MEMBERS:

JAMES ALLISON, COUNTY JUDGES & COMMISSIONERS

ASSOCIATION OF TEXAS

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1. **Can a county count money it has set aside in a trust fund to be used for health care expenditures?**

Counties can only count the expenditures made out of the trust fund. It cannot count the amounts set aside in the trust fund, but can count expenditures made out of the trust fund if they are used for health care services and the county does not receive reimbursement for those services.

2. **Should counties coordinate with cities to determine how best to maximize funds for reimbursement?**

Yes, counties should coordinate with cities to maximize all dollars being spent on health care in the county. For instance, if the county and city both are contributing to a family clinic and are also both contributing to a public library, the county may want to sign an agreement with the city whereby the county would take over all responsibility for funding the family clinic and the city may want to take over all responsibility for funding the public library, since the library is not health care related and those funds are not eligible for reimbursement.

These agreements need to be reviewed once a year and may need to be adjusted if costs go up in one area more than another area. Also, be careful that all expenditures to be taken over by the county are health care related. Environmental services provided by a local public health department will not count as health care related and will not be eligible for reimbursement.

3. **Can a county count the salary of the nurse in the county jail?**

Yes, under Section 102.3 (1)(k) of the rules the county can count employee salary and benefits to the extent the employee is engaged in patient health care or other health care services....If you are holding inmates for another political subdivision and you are receiving payment from that political subdivision which covers health care expenditures, you will need to back that amount out from your total inmate health care expenditures.

4. **Can a county count drug testing for Sheriff Department personnel?**

No, employee benefits are not countable. The service has to be related to health care for the general public or the inmates of the county jail.

5. **Do county expenditures for a county nursing home count?**

Yes, these expenditures would also count.

6. **In the future, does the money counties receive through the distribution of tobacco settlement proceeds have to be used on health care?**

No, there is nothing in the settlement agreement that requires the money to be spent on any particular thing. However, for every dollar you spend on health care you will get some portion back. There is an incentive there to spend money on health care since you can obtain partial reimbursement for those expenditures.

7. **If a county has a hospital district that covers the entire county, which entity will count the unreimbursed health care expenditures for inmates of the county jail - the county or the Hospital District?**

This will depend on whose budget those expenditures are in. If they are in the county budget the hospital district will obtain the amount spent by the county and report it on the hospital district expenditure report. The hospital district will receive the tobacco distribution and should give the county the proportion which applies to the amount that was spent by the county on inmate health care. The majority of the time, the hospital district will be solely responsible for inmate health care and this expense is not reflected in the county budget. Instead, the hospital district covers this expense in the amount of taxes it collects. The hospital district cannot claim reimbursement for jail health care expenditures.

8. **Will a county be eligible for tobacco payment for a county-owned hospital if the county did not give any money to its Public Hospital?**

No, if the county does not give money to its Public Hospital, that county will not be eligible to receive tobacco monies for that hospital.

9. **Will the entire contract with the Health Department count even though some of the services the Health Department may provide are not health care related, such as restaurant inspections?**

No, environmental or regulatory services provided by a local health department are not considered health care services and are not eligible for tobacco reimbursement. The county would only count the health care portion of the money given to the health department in the county budget. The county may want to make an agreement with the health department and/or the city, whereby all money given or the largest percentage given by the county needs to be spent on health care. Monies received by the health department from other entities might be used for these environmental or regulatory services. However, to continue environmental services at the current level, the county may need to spend funds on environmental services which are not reimbursable.

10. **If a county provided services to someone in 1999 and does not expect reimbursement, but does receive reimbursement for that care in 2001, how should it offset the reimbursement?**

The county may include those services as unreimbursed expenditures in its annual expenditure statement in 2000. Once the county receives reimbursement or funds for the expenditures, the county shall subtract the amount of the reimbursement or funds from the expenditure statement filed for that year in which reimbursement was received.

See Final Rules Section 102.3 (3)(a)(b).

11. If the county provides for MHMR evaluations, and intake or out reach personnel, are those services countable?

Yes, the county may count these services if it is paying someone to do evaluations or paying physicians to examine people to see if they are in need of mental health services. Transportation costs of the patient would also be a countable expense. However, court procedures such as continued commitment or medication hearings would not be a countable expense. These are not considered direct health care services.

12. Are the salaries of Emergency Medical Technicians countable for reimbursement?

Yes, medical personnel salaries would be countable. However, if they are also serving in another position such as a fire fighter, the county would need to back out the percentage of time the person spends on fire fighting and deduct that amount of salary from the countable (EMT) portion.

First responder services are not countable. The cost of the equipment and training the county provides to the first responders would be countable.

13. Can you count the rent the county pays for a public health clinic or EMS station?

Yes, Section 102.3(1)(H) of the Final Rules provides for “capital expenditures for direct health care services such as construction of ambulance facilities or clinics”. Make sure that 100% of the rent is going for these services. If the county is also paying rent for a county office in the same building, the county would need to back that amount out before calculating the total amount of rent paid for the provision of health care services.

14. Would the salary of the public health authority count?

Yes, even though he/she may not actually do anything until you have a disease outbreak. If he/she provides environmental services as well, the county would need to back out the percentage of time and salary spent on environmental services from the total calculation.

15. If the county pays the utilities or the telephone services for the MHMR facility, are those expenditures countable?

Yes, those expenditures would be countable.

16. If you have a hospital district in one part of the county, is it responsible for inmate care?

The county will file its own report and will include indigent health care expenditures in the other parts of the county as well as all county monies spent on inmate care.

17. If the county passes private foundation funds through the budget and writes a check to the hospital, can the county count this money?

This would be similar to a grant and on the face of it would appear to be reimbursement and therefore the county could not claim the funds. However, if the foundation gave the money to the county as a general donation, giving the county clear authority to use the money at the county’s discretion, and the county used the money on health care, then the county could count it as an expense related to uncompensated health care. The county might need to explain that the money was given to be used according to the county’s discretion and was not any type of reimbursement.

18. Can the county count expenditures such as medication for individuals who do not meet

the Indigent Health Care eligibility standards?

Yes. While the annual expenditure statement calls for a total of indigent health care expenditures, this is not limited to indigents as defined in Chapter 61 of the Health and Safety Code. Many counties have a medical assistance program that provides services to many individuals who do not qualify for the County Indigent Health Care Program. These additional services can be counted. When reporting you could count these services as Indigent Health Care expenditures or you could make a line item at the end of the form and put these expenditures there. Make sure that all unreimbursed health care expenditures are only counted once when filing the distribution statement with TDH.

19. If you have a foundation that owns a building and the county leases space at lower than market value for a health care agency to provide Indigent Health Care, can the county count that loss of revenue as part of that service?

No, this is a cash based report. The only non-cash items have to do with the sale or lease of a hospital. There is no provision for providing undervalued services. This would be similar to giving tax abatements to a business and in turn the business would provide medical services. Tax abatements do not count as unreimbursed medical expenditures.

20. Can the cost of prevention programs be included as an expenditure.

Yes, Section 102.3 (1)(E) of the Final Rules provides for health care outreach and prevention efforts.

21. Can the expense of mental health commitments in the court system be included as a possible expense?

No, that would not be considered a direct health care service. The examination by a physician to determine if the individual is in need of mental health care would countable. Also countable would be transportation cost for the individual to be examined or treated.

22. Would transportation costs include salary and a per mile charge?

If you are counting the per mile charge which included only the use of the vehicle you could also count the salary. Another way you could do it is if you have a vehicle and half of the time the vehicle is used to carry individuals for evaluations or treatment and the other half of the time the vehicle is used to carry persons to TDCJ, for example, and you can document this overall arrangement, then you can count half of the cost of the vehicle and would not have to keep a mileage log. However, you decide to do this, be sure you explain how you did it and justify it on a reasonable basis. Also, on salaries, jail personnel, if they average twice a month transporting persons for medical care, for example, you can count only a proportion of their salary as a health care transportation expense. You could not count the entire amount.

23. Can the county count the cost of autopsies?

No, this is not a countable expenditure.

24. Can the county count expenditures for sending juveniles to boot camps or to detention centers?

The county can only count the per day cost which is reasonably allocated to health care expenditures for an individual. Be sure to document how you arrive at the cost per day for health care.

25. If the county pays for instructors to come in and teach DWI or smoking cessation programs, would these expenses count?

Yes, these expenses would be countable as prevention programs and are authorized in Section 102.3(1)(E) of the Final Rules.

26. Can the county count the salary of the indigent health care workers who process the claims and administer the program?

Yes, you can count the entire salary amount if this is the person's full time job. If the judge's secretary or treasurer provides this service then you can only count a percentage of the salary based on how much time is spent doing indigent health care duties. Only the amount of time spent doing indigent health care functions is countable.

27. Can the salary of an officer who provides security while an inmate is in a health care facility count?

No, they would have to be maintained under security regardless of whether they are in the health care facility or in the jail. The transportation cost would be a countable expense.

28. If you have a DARE program which is administered by one of the officers in the sheriff's department whose sole duty is to run the DARE program, can you count the money spent on the program, including the salary?

Yes, since DARE is a drug prevention program it would also fall under Section 102.3(1)(E) of the Final Rules. However, if you receive any grant money from another source for the DARE program you would need to subtract this amount.

29. Does a rabies control program funded by the county count as a health care expenditure?

No, although it is a prevention program it would fall under the same category as an environmental program such as mosquito control.

30. Would the expense for an animal head which is sent off for a rabies determination, count?

No, that would not count. A physician's exam of the individual who was bitten would count as an allowable expenditure if the county was not reimbursed for the expenditure.

31. Would the health care premiums that the county pays for its employees count as a reimbursable expenditure?

No, these are not direct health care services provided to the general public.

32. Can you count the amount of a bond payment you make on a portion of a building which is used as a health care facility or clinic-- even if it is located within the jail?

Yes, the payment would be countable to the extent that you set aside a facility or clinic in the jail and you can demonstrate either the capital expenditure attributable to that facility or the square footage of the jail that is used for inmate health care cost. This would count as part of your total inmate health care expenditure. Any reimbursements for inmate health care will need to be deducted before you submit the statement to TDH.

33. Can a county include expendable medical supplies such as bandages, medications, and syringes?

Yes, medical supplies may be included. Administrative supplies such as computer paper, etc.,

are includable only to the extent they are used in support of direct health care services.

34. May a county claim reimbursement for meals and lodging which it has paid on behalf of its indigent residents whom they referred to out-of-town providers for outpatient health care services?

Yes. Some counties refer clients to UTMB and M.D. Anderson and other institutions for several consecutive days of outpatient treatments, such as chemotherapy, and pay for their meals and lodging while out-of-town. These expenditures as well as payments for transportation will count.